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**DEPARTMENT OF STATE**

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DIVISION OF PROFESSIONAL REGULATION

<b>PUBLIC MEETING MINUTES:</b>	<b>Adult Entertainment Commission</b>
<b>MEETING DATE AND TIME:</b>	<b>Thursday, July 22, 2010 at 2:00 p.m.</b>
<b>PLACE:</b>	Cannon Building, 861 Silver Lake Boulevard Conference Room A, Dover, Delaware 19904
<b>MINUTES APPROVED:</b>	Thursday, October 28, 2010

**MEMBERS PRESENT**

James Nutter, Chairman  
Maisha Britt, Public Member  
Curtis Larrimore, Public Member  
John Henry, Public Member  
Mary Kate McLaughlin, Public Member

**DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT**

Andrew Kerber, Deputy Attorney General  
Michele Urbaniak, Administrative Specialist II  
David Mangler, Division of Professional Regulation  
Kay Warren, Deputy Director, Division of Professional Regulation

**ALSO PRESENT**

Lt. Daniel Meadows  
Lt. William Crotty  
Willis Duckery  
Arthur Rosenheck  
Jeffrey Cohen

**MEMBERS ABSENT**

None

**CALL TO ORDER**

Mr. Nutter called the meeting to order at 2:18 p.m. Mr. Nutter made a motion, seconded by Dr. Britt, to amend the agenda to add item 4.2 *Review Draft Letter to Adult-Oriented Retail Establishments*. The motion was unanimously approved.

**REVIEW OF MINUTES FOR APPROVAL**

The Commission reviewed the minutes from the April 22, 2010 meeting. Mr. Larrimore made a motion to approve the minutes as presented, seconded by Mr. Henry. The motion was unanimously approved.

## **NEW BUSINESS**

### **Review of Renewal Applications for Licensure**

#### **Bob's Discount Adult Books, Inc. – Jeffrey Cohen**

All Commission members reviewed the renewal application for Bob's Discount Adult Books, Inc. Lt. Meadows and Lt. Crotty reported to the Commission that their legal counsel, Deputy Attorney General Mike Tuttmann, had advised them not to report at the Commission meeting as has been done in the past. The lieutenants stated that they can no longer provide any information for the Commission until statute language is revised accordingly. After review of the statute, Mr. Kerber directed the Commission to Sections 1617(a)(3),(4) and (5) of Title 24 of the Delaware Code. These sections of the statute state that convictions of certain crimes are grounds for revocation of a license. After further discussion, Ms. Urbaniak reported that one employee of Bob's Discount Adult Books had failed to answer a question on the Certificate of Individual form. Ms. Urbaniak further advised that the Division mailed a letter to the business address requesting that the employee return his answer to the Division in writing. To date, no reply has been received. Mr. Cohen reported that his employee had received the request and responded to the Division. After reviewing the 2009 renewal applications, Ms. Urbaniak reported that questions regarding criminal convictions, administrative penalties, and pending complaints were not included on last year's applications. After further discussion, Mr. Kerber advised that in the past, the Commission has approved renewals contingent on the delivery of missing information. Mr. Nutter made a motion to approve the renewal application contingent on the following: 1) the application to be completed within thirty days, and 2) acceptable criminal background reports, as soon as the Commission can obtain them. Mr. Larrimore seconded the motion, and it was unanimously approved.

Mr. Mangler asked if the Commission was approving issuance of the license today. Mr. Nutter confirmed. Mr. Mangler also indicated that the Division has no authority to obtain criminal background reports.

Mr. Nutter addressed the licensees in the audience and advised that they and their employees could opt to obtain their criminal background reports to be submitted to the Commission at their own expense. Lt. Crotty confirmed the cost would be \$69 per report.

#### **DVD Depot, Inc. – Arthur Rosenheck**

All Commission members reviewed the renewal application for DVD Depot, Inc, which included all necessary criminal background reports which were submitted to the Division by SBI at the licensee's expense. Mr. Larrimore made a motion, seconded by Mr. Henry, to approve the renewal application. The motion was unanimously approved.

#### **Fairways Inn Topless Tavern – Willis Duckery**

All Commission members reviewed the renewal application for Fairways Inn Topless Tavern. Ms. Urbaniak reported that there was still missing information on two Certificate of Individual forms. Mr. Larrimore made a motion, seconded by Ms. Britt, to approve the renewal application contingent on the following: 1) the application to be completed within thirty days, and 2) acceptable criminal background reports, as soon as the Commission can obtain them. The motion was unanimously approved.

## **OTHER BUSINESS BEFORE THE BOARD** (for discussion only)

### **AEC's Authority to Require Delaware State Criminal Background Checks – Need to Draft Language**

Mr. Kerber presented draft language for legislation regarding criminal background reports to the Commission for review. Mr. Kerber explained that this would require employees, etc, to be fingerprinted at their own expense for the purpose of completing applications for Adult-Oriented

Entertainment Establishments. Mr. Mangler explained the process as it relates to the Board of Nursing. Mr. Kerber advised that he had spoken to Lt. Meadows and Lt. Crotty before they left the meeting, and that he will submit final language to the State Bureau of Investigations (SBI), who will forward it to the Federal Bureau of Investigations (FBI) for final approval.

Mr. Duckery addressed the Commission, advising that he believes this criminal background requirement will "bog down the system". He also advised that any of his employees who do not provide all required documentation will be terminated.

Mr. Mangler reported that SBI advises 4-6 week turnaround for reports. Mr. Mangler's experience, however, is a 1-2 week turnaround. In the event fingerprint cards cannot be read, then a manual check of names and social security numbers takes significantly more time.

#### Review Draft Letter to Adult-Oriented Retail Establishments

The Commission reviewed a draft letter and mailing list for potential Adult-Oriented Retail Establishments. Mr. Nutter advised that in addition to the mailing list presented, that the letter or one similar, also be mailed to all members of the General Assembly for referrals. Mr. Duckery asked the Commission if he could review the list of potential applicants. Mr. Nutter read aloud the list for the public. After some discussion, Ms. Warren advised that the letters could be mailed as early as next week. Mr. Larrimore made a motion, seconded by Mr. Nutter, to approve the letter and mailing list. The motion was unanimously approved. Ms. McLaughlin suggested an additional mailing to Business Licensees who require an age restriction on who can enter the business, if such restriction exists. Mr. Nutter suggested an additional mailing to Counties. The Commission agreed that for now, we will start with the potential mailing list as presented to the Board, and legislators.

Mr. Kerber advised the Board of the statutory requirement of applicants to sign an Application Affidavit at the meeting in front of the Commission. All three applicants and Commissioner Nutter signed the affidavits.

#### PUBLIC COMMENT

There was no public comment.

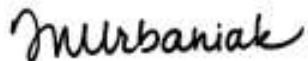
#### NEXT SCHEDULED MEETING

The next meeting will be held on October 28, 2010 at 2:00 p.m. in Conference Room A of the Cannon Building, 861 Silver Lake Blvd., Dover, DE, 19904.

#### ADJOURNMENT

Mr. Larrimore made a motion, seconded by Mr. Henry to adjourn. The motion unanimously carried. The meeting adjourned at 3:39 p.m.

Respectfully submitted,



Michele Urbaniak  
Administrative Specialist II